

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DOUG ARTHUR WOLSHLAGER,

Plaintiff,

v.

BEN EBERLY, et al.,

Defendants.

Case No. 1:17-cv-177

HON. JANET T. NEFF

OPINION AND ORDER

This matter is presently before the Court on Plaintiff's pro se objections to a March 1, 2017 Report and Recommendation issued by the Magistrate Judge, recommending that the action be dismissed upon initial screening pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff's objections, titled "points and authorities in opposition," are a collection of assertions and legal dictionary excerpts. While the objections demonstrate his general dissatisfaction with the recommended result, they do not reference, let alone demonstrate error in, the Magistrate Judge's analysis. *See* W.D. Mich. LCivR 72.3(b) (requiring an objecting party to "specifically identify the portions of the ... recommendations or report to which objections are made and the basis for such objections"). The Court discerns no basis upon which to reject the Magistrate Judge's ultimate conclusion that Plaintiff's complaint fails to state a claim on which relief could be granted in federal court.

In recommending that this case be terminated, the Magistrate Judge reviewed the allegations in Plaintiff's initial Complaint (ECF No. 1). Plaintiff has since filed an Amended Complaint (ECF No. 9). However, the Amended Complaint presents the same state-law causes of actions—two counts of Trespass and a third count alleging Assault and Battery—and is at least substantively identical to the initial Complaint, if not wholly identical. The Court determines that the Amended Complaint likewise fails to state any plausible claim for relief and therefore does not compel a different result in this case. *See* FED. R. CIV. P. 12(b)(6); *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007).

Therefore, a Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58. For the above reasons and because this action was filed *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Judgment would not be taken in good faith. *See McGore v. Wigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007). Accordingly:

IT IS HEREBY ORDERED that the Objections (ECF No. 7) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 5) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Complaint (ECF No. 1) and Amended Complaint (ECF No. 9) are DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: September 20, 2017

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge